

Approved February 22, 2006



**SCOTTSDALE PLANNING COMMISSION  
CITY HALL KIVA  
3939 NORTH DRINKWATER BOULEVARD  
SCOTTSDALE, ARIZONA  
FEBRUARY 8, 2006**

**REGULAR MEETING MINUTES**

**PRESENT:** Steven Steinberg, Chairman  
James Heitel, Vice-Chairman  
David Barnett, Commissioner  
Kevin O'Neill, Commissioner  
Eric Hess, Commissioner  
Steven Steinke, Commissioner

**ABSENT:** Jeffrey Schwartz, Commissioner

**STAFF PRESENT:** Lusia Galav  
Mac Cummins  
Randy Grant  
Sherry Scott  
Tim Curtis  
Kira Wauwie

**CALL TO ORDER**

The regular meeting of the Scottsdale Planning Commission was called to order by Chairman Steinberg at 5:20 p.m.

**MINUTES REVIEW AND APPROVAL**

1. January 25, 2005 (including Study Session)

**COMMISSIONER STEINKE MOVED TO APPROVE THE JANUARY 25, 2006 MINUTES INCLUDING THE STUDY SESSION. SECONDED BY COMMISSIONER HESS, THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF SIX (6) TO ZERO (0)**

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## **CONTINUANCES**

2. 19-UP-2005 Performance Enhancement Professionals
3. 1-TA-2006 Conditional Use Permit Text Amendment for Private and Charter Schools

**COMMISSIONER STEINKE MOVED TO MOVE 19-UP-2005 AND 1-TA-2006 TO FEBRUARY 22, 2006. SECONDED BY COMMISSIONER BARNETT, THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF SIX (6) TO ZERO (0).**

## **EXPEDITED AGENDA**

Chairman Steinberg reported that there will be discussion of some of the items on the expedited agenda and requested that anyone interested in speaking fill out a card.

4. 21-AB-2005 Shoeman Tract Abandonment

Request by owner to abandon the roadway easements between Brown Avenue and Buckboard Trail, and between Shoeman Lane and Camelback Road.

Mr. Curtis addressed the Commission. Highlights of his presentation included an aerial photo depicting roadway easements that are considered rights-of-way which are located on the W Hotel property. He remarked that abandonment would not affect access and there have been no public comments regarding the abandonments. He noted there are some public concerns about the location of construction fencing taking up areas of the street.

Jude Nau, representative for the Sundial Resorts at 7320 East Camelback Road, expressed concern about access through 73<sup>rd</sup> Street being maintained. He noted that 73<sup>rd</sup> Street will be the main access to their hotel and requested that it be stipulated that Sundial Resorts be notified if any changes to Camelback and 73<sup>rd</sup> Street are proposed.

Mr. Curtis clarified that this abandonment does not affect either 73<sup>rd</sup> Street or Camelback. He noted, as of now neither the Transportation Department or the Planning Department have any plans for 73<sup>rd</sup> Street north of Camelback.

**COMMISSIONER BARNETT MOVED TO APPROVE 21-AB-2005. SECONDED BY VICE-CHAIRMAN HEITEL PROVIDED IT BE STIPULATED THAT THE CITY BE REQUIRED TO NOTIFY ANY PROPERTY OWNERS WITHIN A 300 FOOT RADIUS IF THE W HOTEL INTENDS TO BLOCKADE 73<sup>RD</sup> STREET FOR ANY PURPOSE. COMMISSIONER BARNETT AMENDED HIS MOTION TO INCLUDE THE STIPULATION. THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF SIX (6) TO ZERO (0).**

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5. 24-UP-2005 Monarch Property - new Monopalm Cell Site

Request by owner for a conditional use permit for an alternative concealment wireless communication facility as a fake palm tree located at 409 North Scottsdale Road with Multiple Family Residential District (R-5) zoning.

Chairman Steinberg reiterated the importance of this application, noting that as the first monopalm cell site in South Scottsdale it will be setting precedents.

Kira Wauwie addressed the Commission. Highlights of her presentation included an aerial photograph of the area, a site plan, and an elevation of the site depicting trees surrounding the area. She noted that the monopalm will be fifty-five feet in height and will be located inside an enclosure along with the equipment cabinets. Ms. Wauwie stated that Staff is recommending approval.

Chairman Steinberg clarified for the record a discrepancy between the information contained in the packet and the actual height of the monopalm. He noted that the actual height is fifty-five feet, not sixty-five feet as depicted in the packet.

In response to an inquiry by Commissioner Steinke, Ms. Galav commented that it has recently been made a requirement to include in Staff reports which of the four categories the Applicant fits into.

Rulon Anderson, representing T-mobile, addressed the Commission, presenting photographs of existing monopalms and a materials board. He discussed new technology in wireless facilities and the importance of not allowing co-location on concealed sites.

In response to an inquiry by Chairman Steinberg, Mr. Anderson explained that the palm fronds are bolted on to withstand wind loads during monsoon season. Mr. Anderson explained the height was lowered from sixty-five feet to fifty-five feet at staff's request and in this case cannot go any lower. He clarified that the monopalm is more secure when installed inside the casing, however it could be placed outside of the casing.

Responding to a question by Commissioner Hess, Mr. Grant clarified that the City of Scottsdale encourages wireless providers to co-locate in order to reduce the potential of more monopoles.

Mr. Grant clarified for Commissioner Barnett that the City does have the authority within five years to require that the monopalm be removed if it is no longer in use or if it is not maintained satisfactorily.

**COMMISSIONER BARNETT MOVED TO APPROVE 24-UP-2005 ASSUMING THAT IT MEETS THE CRITERIA FOR THE CONDITIONAL USE PERMIT. SECONDED BY COMMISSIONER HESS, THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF SIX (6) TO ZERO (0).**

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6. 25-UP-2005 Maloney's Tavern

Request by owner for a conditional use permit for a bar in an existing building located at 8608 E. Shea Blvd with Central Business District (C-2) zoning.

Mr. Grant addressed the Commission. He clarified that the emails received referenced a recent problem with outdoor entertainment in the area not from the Applicant, noting that the applicant will have no outdoor entertainment. One of the stipulations is that there will be no audible entertainment outside the premises. Mr. Grant discussed the security and maintenance plan, noting that the Applicant must provide information to be updated annually detailing security requirements, staff available, information for manager on duty, and the process to be followed in the case of an altercation. There are also stipulations attached in this case requiring monitoring and litter pick-up within 500 feet of the building.

In response to a question by Vice-Chairman Heitel, Mr. Grant explained the conditional permit use enforcement procedure. He stated that any use violations could result in the initiation of a revocation by City Council. He elaborated that a conditional use permit allows for individual consideration of violations.

Mr. Grant reported that this is a reopening of the same type of business previously in the location. He reported that the permit would allow for outdoor entertainment. However, there are currently no facilities for outdoor entertainment and the Applicant would have to apply to both the Planning Commission and the Development Review Board to update the use permit.

Commissioner Barnett remarked that the Applicant agreed to plant additional trees in order to reduce the noise for nearby residents. He inquired about what would trigger a review of the parking requirements in order to make an entire center come up to additional standards for landscaping and number of parking spaces, so the Applicant is not unduly burdened. He noted that he was referring to the Kimley-Horn parking and traffic study done for this case, which stated that a review did not need to be done because they assumed the required number of spaces would remain the same.

Mr. Grant mentioned that a review of the entire center was done and the parking in the center is well over the minimum standards of the Ordinance. He opined that a requirement for additional landscaping would be appropriate and could be requested of the property owner by the Applicant prior to going to City Council.

In response to Commissioner Barnett, Mr. Grant reviewed conditions that would trigger a parking study. He identified main triggers as being if a large floor area use went in or if several of the same type of uses went in that would cause overtaking of the facility. He noted that for every use permit application an update to the parking study is requested.

Commissioner Barnett requested a stipulation that five eucalyptus trees be planted by the Applicant. As a matter of law, Chairman Steinberg questioned how the Applicant could agree to something when he does not own the property. Commissioner Barnett noted that he was led to believe he could make that stipulation. Mr. Grant stated that if landscaping is a priority that may affect the

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City Council consideration, the Applicant should get approval from the property owner prior to appearing before City Council. Commissioner Barnett withdrew his stipulation. In response to inquiry by Chairman Steinberg, the Applicant noted that the owner is located out of state.

Vice-Chairman Heitel expressed concern about the reference on page 5 of the Kimley-Horn parking study to available parking in the office complex to the west of the center. He recalled that when the office complex came through the Planning Commission, neighbors only supported it because it was designated for daytime use.

Mr. Grant stated that the parking study indicates all available parking within 500 feet; it does not authorize that parking to be used. He noted that the office park can veto its use. Commissioner Hess opined that it is not incumbent on the office complex to go to any expense. Mr. Grant mentioned one of the stipulations is monitoring parking and there could be a condition attached requiring the Applicant to monitor where people are parking.

Vice-Chairman Heitel clarified that if a use has the potential of negatively impacting the surrounding area, the Planning Commission is required by the Ordinance not to approve it.

Commissioner O'Neill mentioned he lives in the neighborhood and has personal experience with the shopping center. He noted the center has an overabundance of parking available.

Oliver Badgio, Applicant, 2753 Shalero Circle, addressed the Commission. Mr. Badgio concurred with Commissioner O'Neill that there is an overabundance of parking available in the center. He remarked that when the location was operating as Marco Polo there were no violations and no problems with parking in the office complex; they plan on continuing to operate at the same level of responsibility.

Vice-Chairman Heitel inquired whether there would be a problem with a stipulation prohibiting parking to the west and a stipulation prohibiting any outdoor entertainment. Mr. Badgio responded that they do not have outdoor entertainment or speakers outdoors, so that stipulation would be fine. With respect to a parking stipulation, he noted that he does not have the knowledge or ability to control parking.

Ken Legan, 8532 Appaloosa Trail, addressed the Commission. Mr. Legan requested a stipulation for no parking in the office complex lot. He expressed concern that the parking lot is not safe because it was designed for daytime use and has low lighting levels. He noted that the cut through from the office complex connects with Pima Crossing, which will cause people to cut through to reach the Tavern. Mr. Legan suggested that security and cones could be used to control parking.

In response to a question by Vice-Chairman Heitel, Mr. Legan clarified that there is a driveway access from the office complex to the shopping center that is visible from the Tavern.

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In response to Vice-Chairman Heitel, Mr. Grant clarified that it could be stipulated that the Applicant make arrangements for the owner of the shopping center to install a gate to be closed at night. Mr. Badgio suggested that he work personally with the neighbors and cones be placed in the opening and a security guard monitor the area, noting he does not have the authority to install a gate. Commissioner Hess opined that the tavern could pay for the gate. Mr. Legan argued that a gate may not be approved by the Fire Department and if the Applicant is willing to use cones and keep the music inside, the neighbors would be satisfied.

7. 26-UP-2005 Skeptical Chemist

Request by owner for a conditional use permit for live entertainment in an existing building located at 15688 North Pima Road Suites C5, C6, and C7 with Highway Commercial District (C-3) zoning.

8. 27-UP-2005 Skeptical Chemist

Request by owner for a conditional use permit for a bar in an existing building located at 15688 North Pima Road Suites C5, C6, and C7 with Highway Commercial District (C-3) zoning.

**VICE-CHAIRMAN HEITEL MOVED TO APPROVE 25-UP-2005 WITH TWO ADDITIONAL STIPULATIONS, THAT THE APPLICANT BE REQUIRED FROM DUSK TO THE END OF THEIR OPERATING HOURS TO VISIBLY BLOCKADE WITH CONES OR MOVABLE FENCING OR SOME APPROPRIATE FENCING THAT PROHIBITS TRAFFIC THROUGH THE DRIVEWAY ENTRANCE TO THE WEST EVERY NIGHT OF ITS OPERATION, AND THAT NO OUTDOOR ACTIVITY OR SPEAKERS BE ALLOWED AND THAT IF ANY REQUESTS FOR OUTDOOR SPEAKERS OR OUTDOOR ACTIVITY BE MADE THAT THE APPLICANT HAVE TO COME BACK TO THE PLANNING COMMISSION FOR RECOMMENDATION TO THE COUNCIL. NOTING THAT THE REST OF THE STIPULATIONS MEET THE USE PERMIT CRITERIA ON 25-UP-2005, HE RECOMMENDED APPROVAL OF 26-UP-2005, NOTING THE STIPULATIONS MEET THE CRITERIA FOR THE USE PERMIT, AND RECOMMENDED APPROVAL FOR 27-UP-2005, ALSO NOTING THAT THE STIPULATIONS CONFORM TO THE USE PERMIT CRITERIA. SECONDED BY COMMISSIONER BARNETT, THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF SIX (6) TO ZERO (0).**

Mr. Grant responded to inquiry by Commissioner Barnett regarding regional use overlay. He presented the Commissioners with the summary of the land use plan which identifies the regional use overlay.

Commissioner Barnett opined since this is the only regional overlay in the City, it should be noted on the application. Mr. Grant stated that Staff will make the adjustment in the Council report.

In response to Commissioner Barnett's suggestion that conditional use permits be presented in a list of upcoming applications in order to give the public a

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chance to respond, Mr. Grant noted that Staff can create a tentative list every month.

Vice-Chairman Heitel mentioned an e-mail he received concerning 118-DR-2006, in which there is a problem with cross access and traffic cutting through. Mr. Grant clarified that there have been issues with connections between the church and the office park. Vice-Chairman Heitel asked whether the traffic issue was being handled at the Development Review Board.

Ms. Sherry Scott interjected, noting that the item is not on the agenda. She recommended that, although it is directly related to an item just voted on, it would be best not to discuss the case in order to avoid violating any Open Meeting laws.

### **ADJOURNMENT**

With no further business to discuss, the regular meeting of the Scottsdale Planning Commission adjourned at 6:50 p.m.

Respectfully submitted,  
A/V Tronics, Inc.

**APPROVED**